

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMAZIN' RAISINS INTERNATIONAL, INC.,
an Ontario, Canada corporation,

Plaintiff,

V.

Civ. Action No. 04-12679-MLW

OCEAN SPRAY CRANBERRIES, INC.,
a Delaware corporation,

Defendant.

JOINT STATEMENT

In response to the Court's August 16, 2008 Memorandum and Order, the parties through their undersigned counsel of record hereby state as follows:

1. On December 13, 2007, the United States Court of Appeals for the Federal Circuit deactivated the appeal initiated by Amazin' Raisins International, Inc. (ARI) following entry of summary judgment in the above-captioned action.
2. On January 22, 2008, ARI moved the Federal Circuit to reactivate the appeal.
3. On February 20, 2008, the Federal Circuit granted ARI's motion, ordered that the appeal (Appeal No. 2008-1098) be reactivated, and re-set the briefing schedule. (*See* Order attached as Exhibit A.)
4. Since July 25, 2008, when the Joint Appendix was filed, the appeal has stood fully briefed and ready for argument.

Dated: August 22, 2008

/s/ Michael E. Zeliger

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Dated: August 22, 2008

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AMAZIN' RAISINS INTERNATIONAL,
INC.

EXHIBIT A

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-1098

AMAZIN' RAISINS INTERNATIONAL, INC.,

Plaintiff-Appellant,

v.

OCEAN SPRAY CRANBERRIES, INC.,

Defendant-Appellee.

Appeal from the United States District Court for the District of Massachusetts in case
no. 04-CV-12679, Chief Judge Mark L. Wolf.

ON MOTION

Before PROST, Circuit Judge.

ORDER

Amazin' Raisins International, Inc. moves to reactivate this appeal and to reset the briefing schedule. Ocean Spray Cranberries, Inc. opposes the motion. Amazin' Raisins replies.

On August 20, 2007, the district court entered summary judgment of non-infringement in favor of Ocean Spray. Amazin' Raisins filed its notice of appeal on September 18, 2007. Ocean Spray had filed a motion titled "Motion to Amend Judgment and Award Attorneys' Fees" on September 4, 2007. Ocean Spray informed this court regarding the pending motion and this court deactivated the appeal pursuant to Fed. R. App. P. 4(a)(4).

Amazin' Raisins argues that Ocean Spray's September 4 motion regarding attorney fees does not require deactivation of the appeal. We agree.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to reactivate this appeal is granted.
- (2) The appellant's opening brief is due within 30 days of the date of filing of this order.

FEB 20 2008

Date



Sharon Prost
Circuit Judge

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

FEB 20 2008

JAN HORBALY
CLERK

cc: Christopher J. Sorenson, Esq.
Jeffrey L. Snow, Esq.

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMAZIN' RAISINS INTERNATIONAL, INC.
an Ontario, Canada corporation,

Plaintiff,

v.

OCEAN SPRAY CRANBERRIES, INC.,
a Delaware corporation,

Defendant.

Civ. Action No. 04-12679-MLW

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2008, I caused the following document:

JOINT STATEMENT

to be electronically filed with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the following:

John C. Adkisson adkisson@fr.com mla@fr.com

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Michael E. Zeliger zeliger@fr.com omeara@fr.com

Dated: August 22, 2008

/s/Christopher J. Sorenson
Christopher J. Sorenson